IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 5TH OCTOBER 2006 / 13TH ASWINA 1928

MFA.No. 69 of 1996()

OPMV.523/1992 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KASARAGOD

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APPELLANT3RD RESPONDENT:

NATIONAL INSURANCE CO. LTD.,
MAIN ROAD, SULLIYA (S.K.),
NOW REPRESENTED BY ITS ASSISTANT MANAGER,
REGIONAL OFFICE, M.G.ROAD, ERNAKULAM.

BY ADV. SRI.GEORGE CHERIAN

RESPONDENTS/CLAIMANTS & RESPONDENTS 1 AND 2::

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1. ABDULRAHIMAN, S/O. IBRAHIM,
   RESIDING AT PADY HOUSE, KULAVOOR VILLAGE,
   KUPPE, PADAVU.P.O., MANGALORE TALUK.

2. SARAMMA, W/O. ABDULRAHIMAN,
   RESIDING AT PADY HOUSE, KULAVOOR VILLAGE,
   KUPPE, PADAVU.P.O., MANGALORE TALUK.

3. HAJABBA, S/O.IBRAHIM,
   RESIDING AT PADY HOUSE, KULAVOOR VILLAGE,
   KUPPEPADAVU POST, MANGALORE.

4. MOHAN BHANDARY, S/O.KANNA BHANDARY,
   RESIDING AT KARPALA HOUSE, SULLIA.P.O.,
   SULLIA, S.K., KARNATAKA STATE.

BY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ALONG WITH M.F.A.91/1996 ON 05/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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M.F.A.Nos.69 & 91 OF 1996

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Dated this the 5th day of October, 2006.

JUDGMENT

Notices, to the respondents, in the applications to condone delay in filing these appeals were duly served and the applications to condone delay were allowed unopposed. These appeals are posted today for further consideration. The service of notice in the delay condonation applications is treated as service of notice in these appeals.

2. The short issue that arises for consideration is as to whether the insurer is entitled to reimbursement from the owner on satisfaction of the award since the driver has been found to have driven the vehicle involved in the accident without licence. The Tribunal having found that the driver did not have a valid licence, it ought to have granted the insurer the entitlement to reimbursement from the insured on satisfaction of the award.

In the result, these appeals are partly allowed and it is directed that the appellant insurer will be entitled to reimbursement from the insured in execution of the impugned common award as modified by this appellate award.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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M.F.A.Nos.69 & 91 OF 1996

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JUDGMENT

Dated: 5th October, 2006.